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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12

13 **UNITED STATES OF AMERICA,**

NO. CV 08 3486

14 **Plaintiff,**

**CLAIMANT'S ANSWER TO
COMPLAINT FOR
FORFEITURE IN REM**

15 **vs.**

16 **\$49,990 IN UNITED STATES CURRENCY,**

JURY DEMANDED

17 Defendant. /

18 **TO THE HONORABLE JUDGE OF SAID COURT:**

19 **COMES NOW, MICHAEL MCGUIRE, hereinafter known as the Claimant, by and**
20 **through his attorney, BLACKIE BURAK, and hereby answers the Plaintiff's Complaint**
21 **for Forfeiture in Rem as follows:**

22 **1. The Complaint for Forfeiture in Rem fails to state a claim upon which relief can**
23 **be granted to defeat Claimant's claim to the subject funds.**

24 **2. The allegations contained in Paragraph 1 of the Complaint for Forfeiture in Rem**
25 **are denied.**

26 **3. The allegations contained in Paragraphs 2 and 3 of the Complaint are admitted.**

27 **4. The allegations contained in Paragraph 4 of the Complaint are denied.**

28 **5. Claimant has insufficient knowledge or information to form a belief as to the truth**

1 of the allegations contained in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, and 13 of the
2 Complaint.

3 6. The allegations contained in Paragraph 14 of the Complaint assert a conclusion
4 of law as to which no answer is required. To the extent that Paragraph 14 avers that
5 the filing of the judicial forfeiture action was necessary at all, the averment is denied.

6 7. The allegations contained in Paragraph 15 of the Complaint for Forfeiture in Rem
7 are denied.

8 In addition, Claimant raises the following numbered defenses to the government's
9 forfeiture unit:

10 **FIRST DEFENSE**

11 8. The Plaintiff lacks probable cause for belief that a substantial connection exists
12 between the property sought to be forfeited and the exchange of a controlled
13 substance.

14 **SECOND DEFENSE**

15 9. Without waiving any defense asserted above, Claimant further asserts that the
16 Defendant property is not subject to forfeiture on the basis that any act or omission, if
17 any, on the part of any other individual that would potentially give rise to forfeiture of the
18 Defendant property was committed or omitted without the knowledge or consent of
19 Claimant.

20 10. Claimant reserves the right to supplement and amend this Answer as necessary
21 as matters develop through discovery of certain facts and circumstances regarding the
22 Plaintiff's Complaint for Forfeiture in Rem and specifically reserves his right to file any
23 applicable counterclaims.

24 11. Please take notice that Claimant demands trial by jury of the issues and
25 defenses raised by his claim and answer.

26 WHEREFORE, PREMISES CONSIDERED, Claimant MICHAEL MCGUIRE, prays
27 that the Honorable Court will:

28 1. Dismiss Plaintiff's Complaint for Forfeiture in Rem and enter judgment on behalf

1 of the Claimant and that Plaintiff take nothing by reason of this suit;

2 2. Deny issuance of a certificate of reasonable cause pursuant to 28 U.S.C.,
3 Section 2465 and award costs and attorney's fees to the Claimant; and

4 3. Provide such other and further relief, both legal and equitable, as the Court
5 deems proper and just.

6 Dated: August 9, 2008

7 Respectfully submitted,

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10 BLACKIE BURAK
11 Attorney for Claimant
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1 STATE OF CALIFORNIA

VERIFICATION

2 COUNTY OF CONTRA COSTA

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4 I, Blackie Burak, states as follows:

5 1. I am the attorney for Claimaint MICHAEL MCGUIRE and duly authorized to make
6 this Answer on his behalf.

7 2. I have read the foregoing Claimant's Answer to Complaint for Forfeiture in Rem
8 and believe the statements contained therein to be true and correct to the best of my
9 knowledge.

10 I declare under penalty of perjury that the foregoing is true and correct to the best of
11 my knowledge.

12 Executed this 10th day of August, 2008.

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15 _____
16 BLACKIE BURAK
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing Claimant's Answer to Complaint for Forfeiture in Rem was mailed, certified mail, return receipt requested to Stephanie M. Hinds, Assistant United States Attorney, U.S. Attorney's Office, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102, on this 11th day of August, 2008.

Jane Adams
JANE ADAMS